

REMARKS

This responds to the Office Action dated January 14, 2008.

Claims 25-27 and 29-31 are amended, new claim 42 is added; as a result, claims 25-31 and 42 are now pending in this application.

§102 Rejection of the Claims

Claim 25 was rejected under 35 U.S.C. § 102(e) for anticipation by Miller (U.S. Patent No. 7,266,832).

Amended independent claim 25 recites in part:

“compiling consumer profile information;

determining whether a first advertisement matches the consumer profile information,
wherein the first advertisement is located via a dedicated broadcast frequency from a transmission center or via scanning a set of broadcast frequencies from the transmission center if the first advertisement is not located via the dedicated broadcast frequency;

in the event that the first advertisement matches the consumer profile information,
recording the first advertisement; and

in the event that the first advertisement does not match the consumer profile information,
ignoring the first advertisement.”

(Emphasis added.)

Claim 25 is amended to include some of the limitations recited in claim 26. More specifically, claim 25 is amended to include the limitations “wherein the first advertisement is located via a dedicated broadcast frequency from a transmission center **OR** via scanning a set of broadcast frequencies from the transmission center if the first advertisement is not located via the dedicated broadcast frequency.” (Emphasis added.)

The Examiner admitted on page 3 of the Office Action that Miller fails to disclose “determining whether the first advertisement is broadcast by a transmission center on a dedicated frequency; and if so, tuning a receiver to the dedicated frequency; if not, then scanning a set of broadcast frequencies to locate the first advertisement.”

Applicant respectfully submits that Miller not only fails to disclose what the Examiner admitted, but also fails to disclose the limitations “the first advertisement is located via a

dedicated broadcast frequency from a transmission center or via scanning a set of broadcast frequencies from the transmission center if the first advertisement is not located via the dedicated broadcast frequency.”

In rejecting claim 26, the Examiner alleged that Lazaridis (US Patent No. 7076244) teaches locating an appropriate ad targeted to a user by scanning many broadcast channels. The Examiner specifically identified Figure 7 step 308 and col. 13, lines 34-35 of Lazaridis as teaching this limitation. Applicant respectfully disagrees.

In Figure 7 step 308, Lazaridis teaches a decision block that asks the question “Are there more channels?” The related text specifies “In step 308, the proxy content server determines if there are any other channels to be searched. If other channels exist to be searched, then the method returns to step 302.” Applicant wants to point out that even if the result of the decision block in step 306 is a “yes”, the method of Figure 7 still reaches step 308. Thus, Lazaridis teaches searching through all channels every time until there is no other channel to be searched.

On the contrary, in claim 25, if the first advertisement is located via a dedicated broadcast frequency from a transmission center, there is no need to scan the set of broadcast frequencies from the transmission center.

Applicant submits that, at least for the above reason, claim 25 and its dependent claims 26-31 is patentable over Miller and Lazaridis, individually or in combination.

Applicant submits that, at least for the same reason, claim 42 is also patentable over Miller and Lazaridis, individually or in combination.

§103 Rejection of the Claims

Claims 26-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Miller (U.S. Patent No. 7,266,832) as applied to claim 25 above, and further in view of Lazaridis (U.S. Patent No. 7,076,244).

Applicant submits that since claims 26-31 depend from claim 25, and since claim 25 is patentable over Miller or Lazaridis, claims 26-31 are also patentable.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 408-278-4059 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 10 day of April 2008.

Name

Signature